No. 23-97

IN THE

Supreme Court of the United States

SHANNON DAVES, *et al.* ON BEHALF OF THEMSELVES AND ALL OTHERS SIMILARLY SITUATED,

Petitioners,

v.

DALLAS COUNTY, TEXAS, *et al.*,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FIFTH CIRCUIT

BRIEF OF THE CATO INSTITUTE AS *AMICUS CURIAE* IN SUPPORT OF PETITIONERS

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INTEREST OF *AMICUS CURIAE*[1]

The Cato Institute is a non-partisan public-policy research foundation established in 1977 and dedicated to advancing the principles of individual liberty, free markets, and limited government. The Cato Institute's Project on Criminal Justice was founded in 1999 and focuses on the proper role of the criminal sanction in a free society, the scope of substantive criminal liability, the proper and effective role of police in their communities, the protection of constitutional and statutory safeguards for criminal suspects and defendants, citizen participation in the criminal justice system, and accountability for law enforcement officers.

INTRODUCTION AND SUMMARY OF ARGUMENT

The federal courts' exercise of their jurisdiction is a matter of obligation, not choice. This Court has long held that "[q]uestions may occur which [federal courts] would gladly avoid; but [they] cannot avoid them." *Cohens v. State of Virginia*, 19 U.S. 264, 404 (1821). Accordingly, "[w]hen a Federal court is properly appealed to in a case over which it has by law jurisdiction, it is its duty to take such jurisdiction[.]" *Willcox v. Consol. Gas Co. of New York*, 212 U.S. 19, 40 (1909). While abstention doctrines can serve important principles of comity and federalism,

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[1] Pursuant to Rule 37.6, *amicus curiae* affirms that no counsel for a party authored this brief in whole or in part, and that no person other than *amicus curiae*, its members, and its counsel made a monetary contribution to its preparation or submission. Counsel of record for all parties received notice of *amicus curiae*'s intent to file this brief at least 10 days prior to the due date.

such doctrines must yield to this bedrock constitutional requirement.

Petitioners brought Fourteenth Amendment claims under 42 U.S.C. § 1983 challenging Dallas County's bail procedures. In Dallas County, Texas, the district and county court judges promulgated two bail schedules, one each for felony and misdemeanor charges, specifying the price for release based on the arrestee's category of charge. *Daves v. Dallas Cnty.*, *Texas*, 22 F.4th 522, 530 (5th Cir. 2022); Op. at 4; Pet. at 5. Dallas County judges impose the predetermined amount for bail pursuant to these schedules during arraignment, where individuals are not represented by counsel and are unable to raise any challenges to bail. Pet. at 5. But the schedules do not take into consideration an individual's ability to pay the amount listed, and they are "routinely treat[ed]" as "binding when determining bail." *Daves*, 22 F.4th at 530; Op. at 4 ("The schedule allegedly prevented consideration of the defendants' ability to pay, and it was rigidly enforced by the magistrate judges who initially make these decisions."); Pet. at 5. As a result, individuals who cannot pay secured bail in the scheduled amount must face pretrial detention, which may last months. Pet. at 5-6. Consequently, individuals are deprived of their physical liberty due to Dallas County's bail procedures and suffer irreparable harm.

Unmoored from the standards and precedents of this Court, the Fifth Circuit's decision below invoked *Younger* abstention and declined to exercise jurisdiction over Petitioners' claims. In doing so, the Fifth Circuit impermissibly expanded *Younger* abstention beyond its carefully circumscribed limits and abdicated its constitutionally-assigned role as a federal tribunal in the adjudication of federally-

protected rights within its jurisdiction. Application of *Younger* abstention in this manner is not an exercise of judicial *restraint*, but an exercise of judicial *activism*: it violates the separation of powers to manipulate the *express* jurisdiction of federal courts by resort to *judicially crafted* doctrines.

The Court first articulated the abstention principles at issue in this case in *Younger v. Harris*, 401 U.S. 37 (1971). The Court held that federal courts should abstain from federal intervention in cases with pending state court proceedings unless equitable principles justified such intervention. *Id.* at 43, 54. Since *Younger*, the Court has "stressed" that "[c]ircumstances fitting within the *Younger* doctrine . . . are 'exceptional . . . .'" *Sprint Commc'ns, Inc. v. Jacobs*, 571 U.S. 69, 73 (2013). That is because unlike other abstention doctrines, *Younger* abstention does not merely postpone consideration of federal claims until after resolution of state proceedings, but instead "contemplates the outright dismissal of the federal suit, and the presentation of all claims, both state and federal, to the state courts." *Gibson v. Berryhill*, 411 U.S. 564, 577 (1973). Thus, for *Younger* abstention to apply, it is not enough that state court proceedings are ongoing. Rather, the state court proceedings must provide "the opportunity to raise and have *timely decided* by a competent state tribunal the federal issues involved." *Id.* (emphasis added). As even the Fifth Circuit's opinion acknowledges, these preconditions to application of *Younger* abstention are wholly absent here. Op. at 23.

At bottom, *Younger* abstention, just as all prudential restraint doctrines, must bow to litigants' rights to an adequate opportunity to raise the deprivation of constitutional rights, the privilege to

choose a more favorable forum, and the irreparable harm individuals may suffer from constitutional violations. Faithful application of this Court's jurisprudence demonstrates that *Younger* abstention is not only inappropriate here, but would in fact violate the very interests the doctrine purports to serve. Certiorari is therefore necessary to correct these errors and clarify the scope of *Younger* abstention in § 1983 claims collateral to a state criminal prosecution.

ARGUMENT

I. The Decision Below Conflicts With This Court's Precedent.

The Fifth Circuit's insistence that as "[c]ontroversial as *Younger* has seemed to those steeped in the judicial activism of the last half century, the Supreme Court, far from disavowing or materially narrowing the doctrine, repeatedly expanded its reach in the succeeding cases," does not comport with this Court's body of jurisprudence on *Younger* abstention. Op. at 11 (footnote omitted). Citing only cases from the 1970s and 1980s, Op. at 11 n.15, the Fifth Circuit mischaracterizes the circumstances in which *Younger* abstention should apply and, more holistically, wrongly concludes that prudential doctrines may be used to artificially limit federal jurisdiction.

First, the decision below conflicts with this Court's applications of *Younger* abstention. *Younger* abstention, since it was first articulated by this Court, has been a doctrine of limited application. *Younger* abstention is intended to serve the important policy interests of equity jurisprudence, comity, and federalism, as abstaining from the exercise of federal

jurisdiction is appropriate to avoid "unduly interfer[ing] with the legitimate activities of the States." 401 U.S. at 43-44. As the Court explained, its importance under the U.S. Constitution serves "to prevent erosion of the role of the jury and avoid a duplication of legal proceedings and legal sanctions where a single suit would be adequate to protect the rights asserted." *Id.* at 44.

The federal courts' adjudication of Petitioners' claims for violations of their Fourteenth Amendment rights will not duplicate any efforts of the Texas state courts in Petitioners' criminal cases. Nor will it unduly interfere with Texas's prosecution or prosecutorial discretion. Rather, Petitioners' federal claims about pretrial detention and cash bail raise issues entirely distinct from their prosecution and should be resolved by a federal court. Dallas County's pretrial procedures are *not* legitimate. As described herein, they violate Petitioners' Fourteenth Amendment rights through unjustified pretrial detention, expose them to irreparable harm, and leave them without adequate recourse to challenge the imposition of cash bail and the resulting detention for their inability to pay bail. For these reasons, the Fifth Circuit's holding is in direct conflict with this Court's decision in *Gerstein v. Pugh*, 420 U.S. 103 (1975). Just like this case, *Gerstein* addressed a constitutional challenge to pretrial detention, and this Court held that *Younger* did not require abstaining from consideration of the plaintiff's constitutional claims because it was "an issue that could not be raised in defense of the criminal prosecution," and thus would

not unduly interfere with state prosecutions. *Id.* at 108 n.9. *See* Pet. at 16-18.

Second, the Fifth Circuit's application of *Younger* abstention is contrary to this Court's clear directives regarding federal courts' jurisdiction. Federal courts are obligated to exercise the jurisdiction given to them. As Justice Scalia explained, this obligation flows from Congress's control over the scope of their jurisdiction:

> The [C]ourts of the United States are bound to proceed to judgment and to afford redress to suiters before them in every case to which their jurisdiction extends. They cannot abdicate their authority or duty in any case in favor of another jurisdiction . . . . Underlying these assertions is the undisputed constitutional principle that Congress, and not the Judiciary, defines the scope of federal jurisdiction within the constitutionally permissible bounds.

New Orleans Pub. Serv., Inc. v. Council of City of New Orleans, 491 U.S. 350, 358 (1989) (internal quotation marks and citations omitted). Accordingly, "abstention is permissible, and it remains the exception, not the rule." *Id.* at 359 (internal quotation marks and citations omitted). "Federal courts, it was early and famously said, have 'no more right to decline the exercise of jurisdiction which is given, than to usurp that which is not given.'" *Sprint*, 571 U.S. at 77 (quoting *Cohens*, 19 U.S. at 404). The obligation to exercise jurisdiction is therefore "virtually

unflagging." *Id.* (quoting *Co. River Water Conserv. Dist. v. United States*, 424 U.S. 800, 817 (1976)).

The Fifth Circuit's attempt to cast aside *Sprint* is unavailing. The court below all but ignored *Sprint*, stating that "*Sprint* detracted not a whit from *Younger*'s ongoing force in respect of criminal adjudication," because it "involves state administrative litigation, not interference in criminal proceedings." Op. at 22. But the Fifth Circuit disregarded that the core principles underlying *Younger* are not unique to criminal prosecutions. As the *Younger* Court described, the interests of comity and federalism are based on "a proper respect for state functions" and a belief that the Union "will fare best if the States and their institutions are left free to perform their separate functions in their separate ways." 401 U.S. at 44. This reference to state institutions is not limited to the prosecutorial arm of the state. In *Sprint*, the Court explained that it "has extended *Younger* abstention to particular state civil proceedings that are akin to criminal prosecutions, or that implicate a State's interest in enforcing the orders and judgments of its courts." *Sprint*, 571 U.S. at 72-73 (citations omitted). In other words, where *appropriately* invoked under certain circumstances, abstention principles can apply to criminal, civil, and administrative proceedings alike.

Furthermore, the broader principles *Sprint* articulated in favor of the Court's exercise of jurisdiction are not so cabined as the Fifth Circuit would suggest. In *Texas v. California*, 141 S. Ct. 1469 (2021) (Mem.) (Alito, J., dissenting), Justice Alito and Justice Thomas dissented from the Court's denial of Texas's motion for leave to file a bill of complaint related to a California travel ban that restricted state-

sponsored or state-funded travel to states failing to meet California standards regarding discrimination based on sexual orientation and gender identity and expression, including Texas. *Id.* at 1473. Texas sought to file a complaint against California, claiming that the ban violated the Privileges and Immunities Clause, Commerce Clause, and the Equal Protection Clause. *Id.* at 1474. Justice Alito analogized the Court's refusal to allow Texas to file a complaint over which it might exercise original jurisdiction to a refusal to apply diversity jurisdiction for a traffic accident in California between residents of California and Texas. Citing *Sprint*, Justice Alito admonished that the "federal courts do not have freewheeling discretion to spurn categories of cases that they don't like." *Id.* at 1469. "The Court has repeatedly stressed that a federal court is *almost always* obligated to entertain a case over which it has jurisdiction. Instances in which this is not required are the *rare exception*." *Id.* (citing *Sprint Commc'ns*, 571 U.S. at 77) (emphasis added). The same is true here.

Third, under this Court's precedents, prudential restraint doctrines regularly—and properly—yield to the exercise of federal jurisdiction. For example, in *Quackenbush v. Allstate Insurance Co.*, 517 U.S. 706 (1996), the Court limited the application of abstention principles to cases involving only equitable and discretionary relief. While the present case is not directly implicated by *Quackenbush*'s holding or the principles of *Buford* abstention described therein, its commentary on jurisdiction and abstention is particularly instructive. The Court observed that "[i]n rare circumstances, federal courts can relinquish their jurisdiction in favor of another forum." *Id.* at 722. The Court also cautioned that the "equitable decision"

involved in the application of abstention doctrines—citing *Buford* and *Colorado River*—"only rarely favors abstention." *Id.* at 728. Finally, the Court noted that only "exceptional circumstance" warrants "yielding federal jurisdiction." *Id.* at 731.

And relying on the jurisdictional edict in *Sprint*, the Court has recently cautioned that prudential rationales for standing, as opposed to constitutional ones, should be treated with caution: "To the extent respondents would have us deem petitioners' claims nonjusticiable on grounds that are 'prudential,' rather than constitutional, [t]hat request is in some tension with our recent reaffirmation of the principle that a federal court's obligation to hear and decide cases within its jurisdiction is virtually unflagging." *Susan B. Anthony List v. Driehaus*, 573 U.S. 149, 167 (2014) (internal quotation marks and citations omitted); *see Lexmark Int'l Inc. v. Static Control Components, Inc.*, 572 U.S. 118, 125-26 (2014) (same). The Fifth Circuit's over-reliance on abstention ignores these directives.

Accordingly, certiorari is necessary to reaffirm the limited and appropriate circumstances in which federal courts may apply *Younger* abstention.

II. The Fifth Circuit's Application Of *Younger* Deprives Petitioners Of Fourteenth Amendment Protections With Respect To Bail Procedures.

Abstention may be appropriate under *Younger* if "the moving party has an adequate remedy at law and will not suffer irreparable injury if denied equitable relief." 401 U.S. at 43-44. Indeed, cases pre-dating *Younger* "stressed the importance of showing

irreparable injury . . . ." *Id.* at 46. And in both *Younger* and its companion case, *Samuels v. Mackell*, 401 U.S. 66, 68 (1971), the Court declined to exercise its jurisdiction where there was "no sufficient showing in the record that the plaintiffs have suffered or would suffer irreparable injury." Thus, "where the danger of irreparable loss is both great and immediate[,]" *Younger* abstention does not apply. 401 U.S. at 45. Here, it is beyond debate that Petitioners are irreparably injured by their inability to seek recourse for violations of their Fourteenth Amendment rights under Dallas County's bail procedures. The Court cannot countenance the application of abstention to the detriment of an individual's liberty. The Fifth Circuit's decision allows deprivations of Petitioners' Fourteenth Amendment rights to go unchecked, resulting in even greater harm.

Petitioners' Fourteenth Amendment rights were violated through pretrial detentions that resulted from their inability to pay unreasonable cash bail. "Nearly 1,500 years of history" dictate "a broad American right to bail, which was meant to release virtually all bailable defendants by following the rule that the detention of bailable defendants was mostly forbidden." Timothy R. Schnacke, *A Brief History of Bail*, 57 No. 3 JUDGES' J. 4, 6 (2018). Likewise, this Court has long observed that the "fundamental tradition in this country is that one charged with a crime is not, in ordinary circumstances, imprisoned until after a judgment of guilt." *Bandy v. United States*, 81 S. Ct. 197, 197 (1960).

The right to bail is historically rooted in the presumption of innocence and due process. "Due process commands that no man shall lose his liberty unless the Government has borne the burden of

producing the evidence and convincing the factfinder of his guilt." *Speiser v. Randall*, 357 U.S. 513, 526 (1958) (citing *Tot v. United States*, 319 U.S. 463, 466-67 (1943)). Bail was therefore designed to protect an individual's pretrial liberty before adequate due process. Until the mid-twentieth century, the "tradition of bail as release was reflected not only in practice but also in Supreme Court opinions." Schnacke, *supra*, at 6 (footnote omitted). The "right to bail" was equated with the rights to "release before trial" and "freedom before conviction." *Id.*

Unreasonable bail, however, frustrates the constitutional presumption of pretrial liberty. "[S]uch bail is only to be required as the party is able to procure, for otherwise the allowance of bail would be a mere colour for imprisoning the party on the charge." JOSEPH CHITTY, A PRACTICAL TREATISE ON THE CRIMINAL LAW 88-89 (Edward Earle 1819). As William Blackstone observed,

> [T]o refuse or delay to bail any person bailable, is an offense against the liberty of the subject . . . by the common law, as well as by the statute [Westminster and the Habeas Corpus Act] . . . . And, lest the intention of the law should be frustrated by the justices requiring bail to a greater amount than the nature of the case demands, it is expressly declared by [the Bill of Rights of 1688] that excessive bail ought not to be required . . . .

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Dallas County's bail procedures contradict historical bail practices and the underlying goals of

promoting due process and ensuring individual liberty before a determination of guilt. In Dallas County, bail decisions are made relying on offense-based schedules, for misdemeanors and felonies respectively, that "operate like a menu, associating various prices for release with different types of crimes and arrestees." *Daves*, 22 F.4th at 530 (internal quotation marks omitted). These schedules do not take into consideration an individual's ability to pay secured money bail and are practically treated as binding. *Id.*; Op. at 4. Individuals may be incarcerated solely because they cannot pay their cash bail and payment of the scheduled amount is a required condition of release. *Daves*, 22 F.4th at 531; Op. at 4-5.

These practices render the right to bail illusory and deprive individuals of their physical liberty for days, weeks, or even months. Individuals arraigned in Dallas County also lack a meaningful way to challenge the imposition of cash bail. The predetermined amount of bail is set during arraignment when individuals are not represented by counsel and cannot challenge the bail amount. Pet. at 5.

Unlike in *Younger*, Petitioners have no "opportunity to raise [their] constitutional claims" in state court. 401 U.S. at 49. Nor do they have "the opportunity to raise and have timely decided" those claims in state court. *Gibson*, 411 U.S. at 577. Indeed, that is precisely the problem here: Petitioners are unable to appear before a judge to raise any issues with their bail determination, thus leading to the extended incarceration—which can be up to two to three months—in violation of their Fourteenth Amendment rights. The Fifth Circuit dismissed the relevance of the timeliness of the state court remedy

in the *Younger* abstention analysis, *see* Op. at 23, in express violation of the irreparable injury inquiry mandated by this Court's precedent.

"It is well established that the deprivation of constitutional rights unquestionably constitutes irreparable injury. Deprivation of physical liberty by detention constitutes irreparable harm." *Arevalo v. Hennessy*, 882 F.3d 763, 766-67 (9th Cir. 2018) (internal quotation marks and citations omitted). Petitioners are detained for days, weeks, and even months without any adequate bail hearing. Because Petitioners will suffer irreparable harm from their deprivation of pretrial liberty in violation of their Fourteenth Amendment rights, "this case fits squarely within the irreparable harm exception" and the Fifth Circuit's application of *Younger* was not justified. *See id.* at 766.

This Court should correct the Fifth Circuit's decision below, which jeopardizes essential *constitutional* values in service of *prudential* abstention principles that are not properly invoked under the facts presented by Petitioners' claims.

III. The Fifth Circuit's Application Of *Younger* Is An Inequitable Restriction On Petitioners' Right To Federal Relief.

Under the Fifth Circuit's decision, not only are Petitioners deprived of their Fourteenth Amendment rights, but they are deprived of an opportunity to challenge those deprivations in a federal forum. The Fifth Circuit insisted that "the ultimate impact of abstention does not deprive plaintiffs of a remedy. If required by *Younger*, abstention means they must pursue their claims . . . in state courts, with the

possibility of final oversight by the U.S. Supreme Court." Op. at 8. But applying *Younger* in this manner (1) contravenes the Congressional intent to provide federal relief under 42 U.S.C. § 1983, and (2) undermines a plaintiff's privilege to select the forum in which they litigate.

First, litigants challenging unconstitutional state conduct are entitled to utilize § 1983 to obtain a *federal* forum for adjudication of *federal* claims based on violations of *federal* rights. As this Court has explained, "[t]he very purpose of [§] 1983 was to interpose the federal courts between the States and the people, as guardians of the people's federal rights—to protect the people from unconstitutional action under color of state law[.]" *Mitchum v. Foster*, 407 U.S. 225, 242 (1972).

Through the design of § 1983, "Congress was adding to the jurisdiction of the federal courts, not subtracting from that of the state courts." *Allen v. McCurry*, 449 U.S. 90, 99 (1980). Therefore, although state courts were not deprived of jurisdiction, and they are competent to adjudicate the types of federal issues at play in § 1983 actions, Congress recognized a need for federal oversight. In analyzing the legislative history of § 1983 from the enactment of the Civil Rights Act of 1871, this Court observed,

> It is abundantly clear that one reason the legislation was passed was to afford a federal right in federal courts because, by reason of prejudice, passion, neglect, intolerance or otherwise, state laws might not be enforced and the claims of citizens to the enjoyment of rights, privileges, and

> immunities guaranteed by the Fourteenth Amendment might be denied by the state agencies.

Monroe v. Pape, 365 U.S. 167, 180 (1961), *overruled on other grounds*, *Monell v. Dep't of Soc. Servs. of City of N.Y.*, 436 U.S. 658 (1978). More than a century and a half after the Civil Rights Act of 1871 was passed, these concerns, and the importance of a federal cause of action under § 1983, remain compelling. Seeking a remedy for deprivations of their Fourteenth Amendment rights, Petitioners are entitled to a forum in federal court.

Second, litigants challenging unconstitutional state conduct are entitled to bring suit in the forum of their choosing. A "plaintiff's forum-selection privilege is axiomatic to the common-law tradition of party autonomy." Antony L. Ryan, *Principles of Forum Selection*, 103 W. VA. L. REV. 167, 168-69 (2000). Under this privilege, a plaintiff is "allowed to select whatever forum they consider most advantageous (consistent with jurisdictional and venue limitations)." *Alt. Marine Constr. Co. v. U.S. Dist. Ct. for W. Dist. of Tex.*, 571 U.S. 49, 63 (2013). Accordingly, as the master of their complaint, a plaintiff has the ability to "shape[] the course of the litigation before any judicial involvement," Ryan, 103 W. VA. L. REV. at 168-69—including by filing a complaint in federal court.

Together, a plaintiff's forum-selection privilege and the remedial structures of § 1983 establish a clear right to vindicate asserted violations of a plaintiff's constitutional rights in a federal forum. Professor Erwin Chemerinsky's analysis of litigant autonomy under § 1983 is particularly instructive in the context

of Petitioners' claims. As he explained, "[a]llowing individuals with constitutional claims to select whether to litigate in federal or state court increases the choices individuals make, and thereby enhances litigant autonomy." Erwin Chemerinsky, *Parity Reconsidered: Defining A Role for the Federal Judiciary*, 36 UCLA L. REV. 233, 306-07 (1988). And "there is compelling evidence that the litigant choice principle was intended by Congress when it defined federal court jurisdiction. The congressional creation of concurrent state and federal jurisdiction," through statutes like § 1983, "evidences Congress's desire to leave forum selection to the parties." *Id.* at 311. "Congress sought to allow litigants with constitutional claims to choose between state and federal court." *Id.* "Under the litigant choice principle, the role of the federal courts in constitutional cases is to provide an alternative forum to the state courts, which . . . maximizes the opportunity for the protection of individual liberty, increases litigant autonomy, and enhances federalism." *Id.* at 300.

With these interests in mind, the Fifth Circuit's application of *Younger* is particularly troubling. A challenge like Petitioners' to county pretrial and bail procedures may well encounter hostility in state court under the direction of elected state court judges. And here, such sentiments could be compounded, where the local judges crafted the bail schedules at issue and where Petitioners claim that Texas's newly enacted requirements of S.B. 6 do not provide adequate protection from pretrial abuses in Dallas County. *See* Martin H. Redish, *Judicial Parity, Litigant Choice, and Democratic Theory: A Comment on Federal Jurisdiction and Constitutional Rights*, 36 UCLA L. REV. 329, 335-36 (1988) ("[A]t least as a policy matter,

judges who are free of the potential for undue influence by one of the parties to a litigation—especially when important constitutional rights are at stake—are preferable to those who are not. After all, it was much this philosophy that lay behind article III's inclusion of federal judges' salary and tenure protections in the first place."); *id.* at 336 ("As long as one concedes that article III's protections of judicial independence are advisable purely as a policy matter and that serious harm would be caused in constitutional adjudication by their removal—as the Supreme Court itself has done—one must necessarily concede that judges who have such protections are preferable to those who do not."). However, instead of exercising the jurisdiction expressly conferred by Congress through § 1983, the Fifth Circuit invoked *Younger* to close the federal courthouse doors. The Fifth Circuit's decision thus denigrates Petitioners' constitutional *and* statutory rights by forcing them into a forum with potentially less protection and more biases to derail their claim for relief. *See* Barry Friedman, *A Revisionist Theory of Abstention*, 88 MICH. L. REV. 530, 542-43 (1989).

Moreover, the Fifth Circuit implicitly acknowledged the unavailability of a meaningful remedy within the state proceedings themselves when it found that *Younger* abstention applied because the detainee could pursue *separate state* habeas proceedings. But that is precisely why *Younger* should not apply under these circumstances and its application exacerbates the federal rights violations here: a separate habeas case is not the "pending" state court proceeding, and requiring a detainee to institute state habeas proceedings would not provide either expedient or unbiased relief from continued detention

arising solely from the detainee's straitened financial status. Petitioners, exercising their legal prerogative as the masters of their complaint, must be permitted to pursue more equitable relief in federal court.

In sum, the Fifth Circuit's opinion elevates judge-made doctrine over the constitutional rights of plaintiffs to choose their own forum, the statutory design for § 1983 violations to be adjudicated in federal court as prescribed by Congress itself, and the obligation for federal courts to exercise the jurisdiction given to them.

CONCLUSION

For the foregoing reasons, *amicus curiae* urges the Court to grant certiorari and reverse.

Respectfully submitted,

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